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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,414	11/02/2006	Marta Lago-Arenas	02804.0075	2806
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER DENTER, CLARK F	
			ART UNIT	PAPER NUMBER
			3724	
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			04/01/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,414

Applicant(s)

LAGO-ARENAS, MARTA

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 5-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 3/27/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed on March 27, 2006 has been received and the references listed thereon have been considered.

Drawings

3. The drawings are objected to because of the following informalities:

“Arrow B” described on page 8, line 16 is not shown.

The blade of the knife is not labeled, and it is suggested to add numeral 59 to Figures 2 and 15 to indicate the blade shaped head of the knife 50.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:

On page 8, line 11, "10a and 10b" is inaccurate and should read --10 and 11--; in line 21, the semi-colon ";" should be changed to a period --.

On page 9, line 22, "also" should be deleted for clarity; in line 28, "of the rib 58" appears to be inaccurate, and it is suggested to change it to --of a blade shaped head 59-- or the like.

On page 10, line 25, "10, 30" is inaccurate and should read --11, 30--; in line 26, "knife handle 50" is inaccurate and "handle" should be deleted.

Appropriate correction is required.

Claim Objections

5. Claims 5-19 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5-19 not been further treated on the merits.

Claim Rejections - 35 USC § 112

6. Claims 20-22, 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, lines 4-5, the recitation "extending from the handle end of the knife towards the blade end" is vague and indefinite as to what is being set forth, particularly since the handle is part of the knife.

In claim 21, line 2, "the central longitudinal axis" lacks positive antecedent basis.

In claim 24, line 3, the recitation "can be located" is vague and indefinite as to what structure is being set forth.

In claim 25, line 1, "The set of cutlery" lacks antecedent basis; in line 3, "the slits of the second and third items" lacks antecedent basis.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 20-22 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Dykes, pn 6,884,240.

Dykes discloses and/or teaches a knife made of plastics material with every structural limitation of the claimed invention including a blade (e.g., 16), a handle (e.g., 10, 12, 14, 20), and a rib (e.g., the structure between 14 and 16), having a slit (e.g., 30), wherein the handle tapers to the blade end (e.g., at 14). It is noted that the structure directed to the second and third items in claim 25 is considered to be a functional recitation of intended use of the claimed knife, particularly since the second and third items are not part of the claimed invention (i.e., the knife), and since the functional recitation does not clearly set forth any additional structure of the claimed invention.

9. Claims 20-22 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Krause, pn 2,601,402.

Krause discloses and/or teaches a knife made of plastics material with every structural limitation of the claimed invention including a blade (e.g., 13), a handle (e.g., 1), and a rib (e.g., the structure on the top and rear portion of feature 13), having a slit (e.g., 14), wherein the handle tapers to the blade end. It is noted that the structure directed to the second and third items in claim 25 is considered to be a functional recitation of intended use of the claimed knife, particularly since the second and third items are not part of the claimed invention (i.e., the knife), and since the functional recitation does not clearly set forth any additional structure of the claimed invention.

10. Claims 20-22 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Formo et al., pn 4,524,512.

Formo discloses and/or teaches a knife made of plastics material with every structural limitation of the claimed invention including a blade (e.g., 42), a substantially cylindrical handle (e.g., 22), and a rib (e.g., the structure on the top and rear portion of feature 42), having a slit (e.g., the lower open portion as viewed in Fig. 4), wherein the handle tapers to the blade end. It is noted that the structure directed to the second and third items in claim 25 is considered to be a functional recitation of intended use of the claimed knife, particularly since the second and third items are not part of the claimed invention (i.e., the knife), and since the functional recitation does not clearly set forth any additional structure of the claimed invention.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-4, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Formo et al., pn 4,524,512.

Formo discloses an assembly with almost every structural limitation of the claimed invention including handles each are hollow and have a slit (e.g., the lower open portions as viewed in Fig. 4). Form lacks the handles being cylindrical. However,

cutlery having cylindrical handles is old and well known in the art and provides various well known benefits including a pleasing aesthetic appearance as well as structure that is sturdy, durable and easy to manufacture. Therefore, it would have been obvious to one having ordinary skill in the art to make the handles of Formo cylindrical in shape to gain the well known benefits including those described above.

Regarding claim 24, Formo discloses an assembly wherein the blade "can be" located in the slits of the second and third items as best understood (e.g., if oriented as such on a support surface.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
March 19, 2008